IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15145 of 2024
&
WMP Nos.16471 & 16472 of 2024

M/s.Ritechoice Foundations and Engineering
Pvt. Ltd,
Represented by its authorised representative,
Mr.C.K.Sridhar,
Old No.10/2, New No.25,
1st Main Road, Kasturbai Nagar,
Adyar,
Chennai-600 020. ... Petitioner

Versus

The State Tax Officer,
Adyar Assessment Circle,
Chennai-600 035. ...Respondent

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari to call for the records on the file of the Respondent and to quash the impugned order dated 30.12.2023 bearing GSTIN/33AAACR2285B1ZV/2017-18 passed by the Respondent as arbitrary.

For Petitioner : Mr. J.Ashish

For Respondent : Mr. T.N.C.Kaushik
Addl. Govt. Pleader (T)

ORDER

An assessment order dated 30.12.2023 is assailed in this writ petition on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that it was unaware of proceedings culminating in the impugned assessment order until a phone call was received from the Vijaya Bank on 27.05.2024. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the tax proposal pertains to a mismatch between the GSTR 3B returns and the auto-populated GSTR 2A. He further submits that the discrepancy was reconciled while the reconciliation statement in

Form GSTR 9C was filed. If provided an opportunity, learned submits that the petitioner would be in a position to persuade the respondent to drop the tax proposal. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.T.N.C.Koushik, Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 29.09.2023 and the reminders for personal hearing.

5. On perusal of the impugned order, it is evident that the tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. Learned counsel for the petitioner submits that the mismatch was reconciled while filing the reconciliation statement. By taking the above contention into account as also the fact that the petitioner was not heard before the

tax proposal was confirmed, the interest of justice warrants that an opportunity be provided to the petitioner albeit by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 30.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within two weeks from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to reply to the show cause notice. On receipt thereof and on being satisfied that the 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply. On account of the assessment order being set aside, the attachment is raised.

7. Therefore, W.P.No.15145 of 2024 is disposed of on the above terms. Consequently, the connected miscellaneous petitions

are closed. No costs.

19.06.2024

Index : Yes /No

Speaking Order : Yes /No

Neutral Case Citation : Yes /No

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To

The State Tax Officer,
Adyar Assessment Circle,
Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY,J.

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